This is an interactive mobile application (the “Application”) provided by HAPPY THE APP, INC. (“HAPPY”). Use of the Application and our website at www.happytheapp.io (collectively, the “Services”) is governed by the terms and conditions of this Agreement. We (or our subcontractors) host the Application to connect you to “Happy Givers” (givers of emotional support) that have entered into an agreement with us (a “Giver”). Although accessible by others, the Services (which include content) are intended for access and use only by U.S. customers. Please read these terms and conditions of use (the “Agreement”) carefully before accessing or using the Services. Throughout this Agreement, HAPPY is referred to as “we” or “us.”

General Terms and Conditions

By accessing or using the Services, you agree to bound by this Agreement as posted and accessible through our Application or website at the time of your access or use and to use the Services in accordance with the terms and conditions of this Agreement, our Privacy Policy and any additional terms and conditions that are referenced herein or that otherwise may apply to specific features of the Services, or to products or services that we make available to you through the Services (all of which are deemed part of this Agreement). If you do not agree to the terms and conditions of use for the Services as set forth in this Agreement, you may not use the Services.

If we need to change the terms of this Agreement in the future, we will post the revised Terms and Conditions of Use through our Application or website and update the “Last Revised” date, below, to reflect the date of the changes. You agree to review these Terms and Conditions of Use each time you use the Services so that you are aware of any modifications made to this Agreement. By continuing to access or use the Services after we post such changes, you agree to the terms of this Agreement, as modified.

What Service does Happy Provide?

Happy maintains and hosts mobile application and website services that provides emotional support from non-clinical lay people on demand and over the phone. None of the website or Application content should be considered mental health advice or an endorsement, representation or warranty that any particular course of action is safe, appropriate, or effective for you.

How do I Use the Application?

To use the Application, you first need to register with Happy. When registering, you may be obligated to provide us with certain information, such as your name, address, date of birth, and credit card information. Upon successful completion of the registration process, we will provide you with a personal account, accessible for you with a password of your choice.

You have to be 18 years of age or older and reside in a jurisdiction in which we offer the Application to use the Application. Happy Givers with whom you are connected through the Application do not accept insurance.

HAPPY GIVERS ARE NOT ENGAGED IN THE PRACTICE OF THERAPY OR ANY OTHER LICENSED PROFESSION, DO NOT PROVIDE MENTAL HEALTH SERVICES, AND ARE NOT MENTAL HEALTH CARE PROVIDERS.

Your Use of the Services

You represent and warrant that the information you provide to us is accurate and complete. You acknowledge and agree that we are entitled at all times to verify the information provided and to deny your use of the Services at any time for any reason or no reason.

You may only access the Services using authorized means. It is your responsibility to check to ensure you download the correct Application for your device. We are not liable if you do not have a compatible device or if you download the wrong version of the Application for your device.

By accessing or using the Services, you further agree that:
You will only use the Services for your sole, personal use and you will not resell them to a third party; 

You will not copy or distribute the Services or other Services content; 

You will not upload or transmit any communications or content of any type that infringes or violates any rights of any party; 

You will not use the Services for any purpose in violation of local, state, federal or international laws; 

You will not use the Services as a means to distribute advertising or other unsolicited material to any third party; 

You will comply with all applicable third party terms of agreement when using the Services (e.g., your wireless data service agreement); 

You will not assign or otherwise transfer your account to any other person or entity; and 

You will not try to harm the Services or impair the proper operation of the network in any way whatsoever. 

We reserve the right to immediately terminate your use of the Services should you fail to comply with any of the foregoing rules. 

Payment 

We use a third-party payment processor (the “Payment Processor”) to link us to your credit card account. The processing of payments or credits, as applicable, in connection with your use of the Application will be subject to the terms, conditions and privacy policies of the Payment Processor and your credit card issuer in addition to this Agreement. We are not responsible for any errors by the Payment Processor or your credit card issuer. In connection with your use of the Services, we will obtain certain transaction details, which we will use solely in accordance with our Privacy Policy. 

At present we do not process any insurance claims. 

Intellectual Property Ownership 

Except for the limited license and use rights expressly granted to you under this Agreement, all title to and the rights in the Services, including ownership rights to patents (registrations, renewals, and pending applications), copyrights, trademarks, trade secrets, Happy or third party hardware, other technology, any derivatives of and all goodwill associated with the foregoing is the exclusive property of Happy and/or the applicable third party. 

This Agreement permits you to use the Services for your personal, non-commercial use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material from our Services except as generally and ordinarily permitted through the Services according this Agreement. You must not access or use for any commercial purposes any part of the Services. 

Trademarks 

Certain of the names, logos, and other materials displayed on the website, Application, or in the Services may constitute trademarks, trade names, service marks or logos (“Marks”) of Happy the App, Inc. or other entities. You are not authorized to use any such Marks without the express written permission of Happy the App, Inc. Ownership of all such Marks and the goodwill associated therewith remains with us or those other entities. 

Application License 

Subject to your compliance with the terms and conditions of this Agreement, Happy grants you a limited, non-exclusive, non-transferable license to download and install a copy of the Application on a mobile device that you own or control and to run such copy of the Application solely for your own personal use.
You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Application in any way; (ii) modify or make derivative works based upon the Application; (iii) reverse engineer or access the Application in order to (a) design or build a competitive product or service, (b) design or build a product using similar ideas, features, functions or graphics of the Application, or (c) copy any ideas, features, functions or graphics of the Application; or (v) launch an automated program or script, including, but not limited to, web spiders, web crawlers, web robots, web ants, web indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burdens or hinders the operation and/or performance of the Services.

Disclaimer

THE SERVICES AND ANY INFORMATION CONTAINED ON THE WEBSITE OR APPLICATION, OR PROVIDED THROUGH THE SERVICES ARE PROVIDED ON AN “AS IS” BASIS. ANY ACCESS TO OR USE OF THE SERVICES IS VOLUNTARY. WE WILL REGARD ALL ACCESS OR USE AS VOLUNTARY AND AT THE SOLE RISK OF THE USER.

NOTHING CONTAINED IN THE SERVICES IS OR SHOULD BE CONSIDERED, OR USED AS A SUBSTITUTE FOR, MENTAL HEALTH OR MEDICAL ADVICE, DIAGNOSIS OR TREATMENT. The Services are designed to help provide you with emotional support from non-clinical lay people. Any information contained in the Services should not be relied upon as the basis of any mental health care or medical decision. The Services do not constitute the practice of therapy, medicine, nursing or other professional mental health care or medical discipline.

We do not control, supply, endorse, warrant or guarantee any information, products, services or merchandise supplied by any Giver that you may connect with via the Services.

We also do not warrant or guarantee that files that may be available for downloading through the Services will be free of infections or viruses, worms, Trojan horses or other code that contains contaminating or destructive properties.

We, and our technology service providers, cannot and do not guarantee or warrant against errors, omissions, delays, interruptions or losses, including loss of data. You download and use the Services at your own discretion and risk, and you are solely responsible for any damages to your hardware device(s) or loss of data that results from the download or use of the Services. Users of the Services are responsible for maintaining a means external to the Services for the reconstruction of any lost data.

WE DO NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS OR ENDORSEMENTS OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE OR NON-INFRINGEMENT, OR ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH REGARD TO THE SERVICES, OR WITH RESPECT TO ANY INFORMATION, PRODUCT, SERVICE, MERCHANDISE OR OTHER MATERIAL PROVIDED ON OR THROUGH THE SERVICES. WE DO NOT WARRANT OR GUARANTEE THE ACCURACY, COMPLETENESS, CORRECTNESS, TIMELINESS OR USEFULNESS OF ANY INFORMATION, PRODUCTS, SERVICES, MERCHANDISE OR OTHER MATERIAL PROVIDED THROUGH THE SERVICES OR ON THE INTERNET GENERALLY. WE MAKE NO WARRANTY OR GUARANTEE THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE. YOUR SOLE AND EXCLUSIVE REMEDY FOR DISSATISFACTION WITH THE SERVICES IS TO STOP USING THEM.

Limitation of Liability

YOU UNDERSTAND THAT TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL HAPPY OR ITS OFFICERS, EMPLOYEES, DIRECTORS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS OR LICENSORS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF REVENUES, PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES ARISING OUT OF OR RELATED TO YOUR USE OF THE SITE OR THE SERVICES, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), WARRANTY, STATUTE OR OTHERWISE. To the extent that we may not, as a matter of applicable law, disclaim any implied warranty or limit its liabilities, the scope and duration of such warranty and the extent of our liability will be the minimum permitted under such applicable law.
THE FOREGOING LIMITATION OF LIABILITY WILL COVER, WITHOUT LIMITATION, ANY TECHNICAL MALFUNCTION, COMPUTER ERROR OR LOSS OF DATA, AND ANY OTHER INJURY, ARISING FROM THE USE OF THE SERVICES.

Right to Modify

We may at our sole discretion change, add, or delete portions of this Agreement at any time on a going-forward basis. Continued use of the Services following notice of any such changes will indicate your acknowledgement of such changes and agreement to be bound by the revised Terms of Service, inclusive of such changes.

Indemnification

You agree to indemnify and hold harmless Happy, Happy's affiliates, and each of its and their respective directors, officers, managers, employees, shareholders, agents, representatives, licensors, successors and assigns from and against any and all losses, expenses, damages and costs, including reasonable attorneys' fees, that arise out of your use of the Services, violation of this Agreement by you or any other person using your account, or your violation of any rights of another. We reserve the right to control the defense of any claim for which we are entitled to indemnification under this section. In such event, you agree to provide us with such cooperation as is reasonably requested by us.

 Modifications to, or Discontinuation of, the Services

We reserve the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Services, or any portion thereof, with or without notice. You agree that we will not be liable to you or any third party for any modification, suspension or discontinuance of the Services or any portion thereof.

Privacy

Your use of the Services is subject to Happy's Privacy Policy. Please review this policy so you understand what information we collect through the Services, how we use it, how we secure it, and when we may share it.

Notice of Copyright Infringement

The Digital Millennium Copyright Act of 1998 ("DMCA") provides recourse for copyright owners who believe that material appearing on the Internet infringes their rights under U.S. copyright law. If you believe in good faith that materials appearing on this Web site infringe your copyright, you (or your agent) may send us a notice requesting that the material be removed, or access to it blocked. In addition, if you believe in good faith that a notice of copyright infringement has been wrongly filed against you, the DMCA permits you to send us a counter-notice. Notices and counter-notices must meet statutory requirements imposed by the DMCA. One place to find more information is the U.S. Copyright Office Web site, currently located at http://www.loc.gov/copyright. In accordance with the DMCA, Happy has designated an agent to receive notification of alleged copyright infringement in accordance with the DMCA. Any written Notification of Claimed infringement should comply with Title 17, United States Code, Section 512(c)(3)(A) and should be e-mailed to support@happytheapp.io or by regular mail at:

Happy the App, Inc.

15539 Via De Las Olas

Los Angeles, CA, 90272

(646) 872-5320
Miscellaneous

This Agreement constitutes the entire agreement between us and you with respect to the subject matter contained in this Agreement and supersed all previous and contemporaneous agreements, proposals and communications, written or oral, related to that subject matter. You also may be subject to additional terms and conditions that may apply when you use the products or services of a third party that are available through the Services. In the event of any conflict between any such third-party terms and conditions and this Agreement, this Agreement will govern. This Agreement will be governed by and construed in accordance with the laws of the State of California, without regard to any conflicts of law provisions contained therein.

Any dispute arising under or relating in any way to this Agreement will be resolved exclusively by final and binding arbitration in California under the rules of the American Arbitration Association, except that either party may bring a claim related to intellectual property rights, or seek temporary and preliminary specific performance and injunctive relief, in any court of competent jurisdiction, without the posting of bond or other security. The parties agree to the personal and subject matter jurisdiction and venue of the courts located in California for any action related to this Agreement.

This Agreement is personal to you and you may not assign it to anyone. If any provision of this Agreement is found to be unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from this Agreement and will not affect the validity and enforceability of any remaining provisions. This Agreement is not intended to benefit any third party, and do not create any third party beneficiaries. Accordingly, this Agreement may only be invoked or enforced by you or us. You agree that regardless of any statute or law to the contrary, any claim or cause of action that you may have arising out of or related to use of the Services or this Agreement must be filed by you within one year after such claim or cause of action arose or be forever barred. Any and all provisions of this Agreement that would reasonably be expected to be performed after the termination or expiration of this Agreement shall survive and be enforceable after such termination or expiration including, without limitation, provisions relating to ownership, indemnification, limitation of liability and governing law.

Last Revised: October 2016